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## OLR Bill Analysis

**sSB 350 (File 372, as amended by Senate "A")\***

### ***AN ACT REQUIRING THE ESTABLISHMENT OF MANUFACTURER MERCURY THERMOSTAT COLLECTION AND RECYCLING PROGRAMS.***

#### **SUMMARY:**

This bill requires, by April 1, 2013, mercury thermostat manufacturers to establish mercury thermostat collection and recycling programs.

Beginning July 1, 2014, the bill prohibits manufacturers from selling, offering for sale, or distributing thermostats in Connecticut if they do not meet the bill's program-related requirements. It also prohibits wholesalers or qualified contractors from selling, offering for sale, or distributing thermostats in the state if (1) they do not participate as a mercury thermostat collection site and (2) the thermostats are from noncompliant manufacturers.

The bill (1) requires manufacturers to provide collection sites with containers and information about proper mercury thermostat management and (2) allows them to charge such sites a one-time administrative fee.

The bill requires manufacturers to provide education and outreach programs about mercury thermostat recycling and disposal. It also establishes reporting requirements for them and the Department of Energy and Environmental Protection (DEEP).

Under the bill, a municipality is not required to participate in a manufacturer mercury thermostat collection and recycling program.

The bill also requires, beginning July 1, 2014, disposing of mercury thermostats through recycling or as hazardous waste. It specifies that solid waste disposal facility owners or operators will not violate the

program or disposal requirements if they make certain efforts.

\*Senate Amendment "A" (1) adds a provision specifying that solid waste disposal facility owners or operators will not violate the program or disposal requirements under certain circumstances; (2) adds an accuracy certification to the manufacturer self-evaluation; (3) removes certain retailer references on (a) program compliance and (b) prohibitions on selling, offering for sale, or distributing thermostats in the state; (4) eliminates the provision requiring DEEP education and outreach; and (5) changes certain program and disposal requirement dates.

EFFECTIVE DATE: Upon passage

## **MERCURY THERMOSTAT**

Under the bill, a "mercury thermostat" is a thermostat intended for installation in a residential, commercial, or industrial building that uses a mercury switch to sense and control room temperature by communicating with heating, ventilating, or air conditioning equipment, but not one used for sensing and controlling temperature during manufacturing.

## **THERMOSTAT COLLECTION AND RECYCLING PROGRAM**

### ***Manufacturer Requirements***

The bill requires each mercury thermostat manufacturer, by April 1, 2013, to establish a mercury thermostat collection and recycling program to collect, transport, and properly manage out-of-service mercury thermostats received at participating collection sites. A manufacturer may establish the program individually or with others.

Under the bill, a "manufacturer" is a person who sells or sold, offers or offered for sale, or distributes or distributed a mercury thermostat in Connecticut under a brand or label owned or licensed to him or her.

The bill requires manufacturers to (1) provide a collection container to a requesting wholesaler, retailer, qualified contractor, or municipality that participates as a collection site and (2) include with the container information about properly managing mercury

thermostats as universal waste.

Under the bill, a “wholesaler” distributes and sells at wholesale thermostats and other heating, ventilation, and air conditioning components to “contractors” in the business of installing, servicing, or removing them. A “retailer” sells thermostats directly to homeowners or nonprofessionals by any sales or distribution mechanism. The bill defines “qualified contractor” as a contractor who (1) employs at least seven service technicians or installers or (2) is located outside of a U.S. Census Bureau-defined urban area.

### ***Collection Sites***

Under the bill, starting July 1, 2014, wholesalers or qualified contractors comply with the mercury thermostat collection and recycling program and disposal requirements if they (1) participate as a collection site or (2) collect mercury thermostats and manage their disposal according to applicable state and federal universal waste rules. But wholesalers or qualified contractors must participate as collection sites in order to sell, offer for sale, or distribute thermostats in the state (see below).

Wholesalers or retailers participating as collection sites must post visible signs about collecting and recycling mercury thermostats.

Beginning April 1, 2014, DEEP must post and maintain on its website a list of wholesalers, retailers, qualified contractors, and municipalities participating as collection sites for out-of-service mercury thermostats.

### ***Administrative Fee***

The bill prohibits manufacturers from charging a fee or other charge to anyone participating in the program. But it allows them to charge a one-time administrative fee of up to \$75 to a wholesaler, retailer, qualified contractor, and municipality that participates in its program and receives at least one collection container.

### ***Prohibitions on Selling, Offering for Sale, or Distributing***

Beginning July 1, 2014, manufacturers that fail to establish a

mercury thermostat collection and recycling program and fulfill the related requirements are barred from selling, offering for sale, or distributing thermostats in Connecticut. On the same date, wholesalers or qualified contractors are (1) required to participate as a collection site in order to sell, offer for sale, or distribute thermostats in the state; and (2) prohibited from selling, offering for sale, or distributing thermostats in Connecticut from a noncompliant manufacturer.

### ***Education and Outreach Programs***

Between April 1, 2013 and April 1, 2016, the bill requires manufacturers to conduct education and outreach efforts about the mercury thermostat collection and recycling programs. Manufacturers must educate contractors and homeowners about the (1) importance of properly managing out-of-service mercury thermostats, (2) opportunities for collecting and recycling the thermostats, and (3) availability of manufacturer mercury thermostat collection and recycling programs. Manufacturers must also:

1. promote collection container availability to wholesalers, retailers, qualified contractors, and municipalities;
2. provide signs to participating collection sites to prominently display information for contractors and consumers about collecting and recycling out-of-service mercury thermostats; and
3. supply participating wholesalers and retailers with written material that they can copy to provide customers with information about (a) properly managing out-of-service mercury thermostats and (b) collection and recycling opportunities.

### ***Reports***

The bill requires each manufacturer, beginning April 1, 2014, to submit an annual report to DEEP providing:

1. the number of mercury thermostats it collected and recycled under the program during the prior calendar year;
2. a self-evaluation of the effectiveness of its collection and

recycling program;

3. an accounting of its program administrative costs during the prior calendar year; and
4. a list of wholesalers, retailers, qualified contractors, and municipalities that requested collection containers during the prior calendar year.

The self-evaluation must be certified as substantially accurate by a competent third party acceptable to the DEEP commissioner.

By January 1, 2017, DEEP must submit a report to the Environment Committee about the effectiveness of the manufacturer mercury thermostat collection and recycling programs. The report must (1) be partially based on the manufacturers' reports submitted to DEEP and (2) include recommendations for revising the programs, such as making necessary statutory changes and repealing such programs.

#### **MERCURY THERMOSTAT DISPOSAL**

Beginning July 1, 2014, the bill requires disposing of mercury thermostats by recycling or as hazardous waste.

The bill also provides specific disposal requirements, starting July 1, 2014, for (1) contractors and (2) anyone disposing of mercury thermostats as part of certain energy efficiency or weatherization programs.

A contractor replacing a building's mercury thermostat must recycle or deliver it to a wholesaler, retailer, or municipality participating as a mercury thermostat recycling and collection site. A contractor who demolishes a building must remove mercury thermostats before demolition and recycle or deliver them to a wholesaler, retailer, qualified contractor, or municipality participating as a collection site. Anyone replacing a mercury thermostat as part of an energy efficiency or weatherization program conducted under law or supported or administered wholly or partially by a state department, agency, instrumentality, or political subdivision, must deliver it to a

wholesaler, retailer, qualified contractor, or municipality participating as a collection site.

The bill allows DEEP to enforce these prohibitions.

### **SOLID WASTE DISPOSAL FACILITY**

The bill specifies that an owner or operator of a solid waste disposal facility does not violate the program or disposal requirements if he or she (1) makes a good-faith and consistent effort to comply, (2) posts a sign in a conspicuous location saying mercury thermostats are not accepted at the facility, and (3) provides written notice to all collectors registered to deposit at the facility that such thermostats are not accepted.

### **BACKGROUND**

#### ***Mercury Education and Reduction Act***

PA 02-90 established a comprehensive scheme governing the sale, use, distribution, disposal of, and notification requirements for mercury and many products containing mercury. Besides banning the sale and distribution of certain products containing mercury, it required that products with intentionally added mercury be labeled as to their mercury content (CGS § 22a-612 et seq.).

### **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 29 Nay 0 (03/23/2012)